



12/ Appeal Brief
Y. Smell
11/2003

PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Christine Ann Mueller
Serial No: 09/837,932
Confirmation Number 8503
Filed: 19 April 2001
Title: Lighting System
Examiner: Silbermann, Joanne.
Art Unit: 3611
Case 1154-01

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GROUP 3600

APPEAL BRIEF

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Please enter the following appeal brief in response to the Final Official Action of dated 7 May 2003. Reversal of all rejections is sought. The brief is submitted in triplicate.

REAL PARTY IN INTEREST

The real party(s) in interest are identified in the caption to the brief.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences to the appealed case.

STATUS OF AMENDMENT

There has been no amendment to the claims after the Final Rejection. A response after the Final Rejection, with amendment to claim 7, is filed concurrently with the Appeal Brief. Claim 7 limits the appellate issues.

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SUMMARY OF INVENTION

The invention permits decorative or other lighting of a transparent and translucent surface, and an opaque decorative service by placing a light source within a frame and contacting the light source with the transparent or translucent surface. The transparent, translucent surface and the opaque decorative surface may be eroded in one or more places to provide contrasting images on the transparent surface, the translucent surface and the opaque decorative surface. The transparent, translucent surface and the opaque decorative surface may also be at least partially painted.

ISSUES

Are the claims 1, 3 through 14 inclusive, and 16 through 18 inclusive obvious from the combination of Schöniger et al., United States Patent 5,027,258 issued June 25, 1991 (hereinafter the Schöniger et al. patent) and Torrence, United States Patent 4,922,384 issued May 1, 1990 (hereinafter the Torrence patent).

GROUPING OF CLAIMS

comment on this
→ Independent claim 1 is argued. Claims 7 and 9 which depend from claim 1 are separately argued. Independent claims 13 and 18 are not separately argued. The submission of the claims in this appeal is for the convenience of the Board and in no manner constitutes a waiver or admission that the remaining claims are not separately patentable.

Claim 7 states that lighting system according to claim 1 has the reflective opaque glass backing member at least partially painted. The painting of the

reflective opaque glass backing member provides a decorative effect which is enhanced by the reflective opaque glass.

Claim 9 requires the lighting system according to claim 1 to utilize a rope light as the electrical light source emitter. In the claimed combination of claim 1 the rope light is particularly effective as it provides a continuous length of uninterrupted light to enhance the decorative effect of the invention.

ARGUMENTS

Independent claim 1 sets forth a frame member having a void portion and located within the void an electrical light source emitter. An eroded transparent or translucent glass member is disposed such that said electrical light source emitter substantially contacts said eroded transparent or translucent glass member.

The sole basis for the Examiner's finding that the Schöniger patent teaches a light contacting glass is the drawing in Fig 4. The specification of the Schöniger patent teaches,

A blind hole 14 extends from the top face of the light guide panel 12 into the interior of the light guide batten 12 towards the light guide panel 10. This blind hole 14 may come to an end short of the light guide panel 10 but it may however also extend into the light guide panel 10 as is in fact indicated in broken lines. This blind hole 14 receives an LED 15, whose external diameter is essentially identical to the diameter of the blind hole 14.
Schöniger patent column 5, line 5 et seq.

There is no wording in the Schöniger patent that the electrical light source emitter, when emitting light, substantially contact the eroded transparent or translucent glass member. It is certainly clear from Figs. 1, 2 and 3 of the

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Schöniger patent that the LED 15 does not contact an eroded transparent or translucent glass member. The teachings of the Schöniger patent merely permit the blind hole 14 to extend to the light guide panel 10. The Examiner is actually making an inherency argument which is not permitted in an obviousness rejection. Simply said if the Schöniger patent author thought it was so important to have the LED 15 contact the light guide panel 10 such should have been unequivocally stated.

The Schöniger patent further teaches,

The opaque contrast panel then arranged between these light guide panels then serves for use with the two light guide panels. Schöniger patent column 2, line 62 et seq.

The disclosure of the Schöniger patent recited above never discusses having a backing member which is reflective. Claim 1 recites a reflective opaque glass backing member. The Examiner never provides a reason for finding that Schöniger patent teaches any reflective backing member. The Examiner instead relies on Torrence patent for teaching a reflective backing member

The Torrence patent recites,

A lamp channel 41 is mounted between the two mirrors and proximate to the inside of frame 3. It extends about the entire periphery of the mirrors. Channel 41 carries a series of small lamp bulbs 43 which project inwardly between mirrors 9 and 15. Torrence patent column 3, line 6 et seq.

The Examiner provides no reasoning for modifying the teachings of Torrence patent which does not show *an electrical light source emitter, when emitting light, substantially contacting said eroded transparent or translucent glass member* as recited in claim 1. It is noted that the Schöniger patent also does not disclose contact of the *electrical light source emitter, when emitting*

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light, substantially contacting the eroded transparent or translucent glass member. Thus, the Torrence patent teaches away from the Schöniger patent thereby denying any reason to combine the cited patents to teach the substantially contacting of the light and the eroded transparent or translucent glass member.

The effect obtained by the appellant's claimed invention is enhanced by having the reflective surface, and having the lights contacting the eroded transparent or translucent glass member. Thus, the primary and the secondary references do not teach the invention recited in claim 1. Thus, claim 1 should be allowed.

Claim 7 depending from claim 1 requires that the reflective opaque glass backing member is at least partially painted. There is no teaching in the Schöniger patent or the Torrence patent that the reflective opaque glass backing member is at least partially painted. Thus, claim 7 should be allowed.

Claim 9 requires the lighting system according to claim 1 to utilize a rope light as the electrical light source emitter. The continuous length of uninterrupted the rope light substantially contacting the eroded transparent or translucent glass member enhances the decorative effect of the invention. The rope lighting is a soft lighting effect avoiding hot spots caused by individual bulbs. As neither the Torrence patent or Schöniger patent even disclose the existence of rope lighting the benefits of rope lighting cannot be recognized or predicted. Thus, claim 9 should be allowed.

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C O N C L U S I O N S

THE EXAMINER HAS FAILED TO MAKE A PRIMA FACIA CASE OF OBVIOUSNESS. THE REJECTIONS SHOULD BE REVERSED.

CLAIM 1, CLAIMS 3 THROUGH 14 INCLUSIVE, AND CLAIMS 16 THROUGH 18 INCLUSIVE SHOULD BE ALLOWED AND SUCH IS REQUESTED.

Should the Board have any questions, such may be directed to the number given on this page.

Respectfully submitted.



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APPENDIX CLAIMS ON APPEAL

1. A lighting system comprising:
 - a frame member;
 - said frame member having a void portion;
 - an electrical light source emitter for emitting an electrical light;
 - said void for at least partially receiving said electrical light source emitter;
 - an eroded transparent or translucent glass member;
 - said eroded transparent or translucent glass member disposed such that said electrical light source emitter, when emitting light, substantially contacts said eroded transparent or translucent glass member;
 - a reflective opaque glass backing member located within said void portion;
 - provided further that said reflective opaque glass backing member does not substantially interfere with the transmission of electrical light from said electrical light source emitter through said eroded transparent or translucent glass member.
3. The lighting system according to claim 1 wherein said electrical light source emitter for emitting an electrical light extends substantially around the void.
4. The lighting system according to claim 1 wherein said eroded transparent or translucent glass member has a lengthwise dimension, a heightwise dimension, a widthwise dimension, said heightwise dimension and said

widthwise dimension at least partially defining, a forward surface of said eroded transparent or translucent glass member and a rear surface of said transparent or translucent glass member.

5. The lighting system according to claim 1 wherein said eroded transparent or translucent glass member is transparent.

6. The lighting system according to claim 1 wherein said eroded transparent or translucent glass member is translucent.

10 [7. The lighting system according to claim 1 wherein said reflective opaque glass backing member is at least partially painted.

8. The lighting system according to claim 1 wherein said void at least partially receives said eroded transparent or translucent glass member.

9. The lighting system according to claim 1 wherein said electrical light source emitter for emitting an electrical light is a rope light.

10. The lighting system according to claim 1 wherein the frame member is a picture frame.

11. The lighting system according to claim 1 wherein the frame member is a window frame.

12. The lighting system according to claim 1 wherein said eroded transparent

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or translucent glass member at least partially retains said electrical light source emitter within said void.

13. A lighting system comprising:
- a frame member;
 - said frame member having a void portion;
 - an electrical light source emitter for emitting an electrical light;
 - said void for at least partially receiving said electrical light source emitter;
 - at least one eroded transparent or translucent glass member;
 - a reflective opaque glass backing member located within said void portion;
 - said electrical light source emitter, when emitting light, disposed between said eroded transparent or translucent glass member, and said reflective opaque glass backing member;
- provided further that said reflective opaque glass backing member does not substantially interfere with the transmission of electrical light from said electrical light source emitter through said eroded transparent or translucent glass member.

14. The lighting system according to claim 13 wherein said electrical light source emitter is at least partially retained within said void by pressure from said eroded transparent or translucent glass member.

16. The lighting system according to claim 13 wherein at least one of said transparent glass member, said, translucent glass member, or said reflective

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opaque glass backing member is at least partially painted.

17. The lighting system according to claim 13 wherein there is a single transparent or translucent glass member.

18. A method of lighting comprising:
emitting an electrical light generated by an electrical light source emitter from within a frame member;
said frame member having a void portion;
said frame member further comprising at least one decorative eroded transparent or translucent glass member, and at least one decorative reflective opaque glass backing member wherein the emitted electrical light passes through at least one of said decorative eroded transparent or translucent glass member and reflects from said decorative reflective opaque glass backing surface.